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Comments by the United Nations High Commissioner for Refugees on the draft international convention for the suppression of the financing of terrorism

1. The Office of the United Nations High Commissioner for Refugees (UNHCR) fully shares the preoccupation of States with regard to the suppression of international terrorism. However, UNHCR also shares the concerns expressed by the International Committee of the Red Cross (ICRC) during the session in March (A/AC.252/1999/INF/2).

2. Under normal circumstances, there should be no intersection between terrorist activities and humanitarian work. If the provisions in the 1951 Convention relating to the Status of Refugees and other international humanitarian law and human rights instruments are properly applied, if this application is coupled with enforcement at the national and international levels, and if the humanitarian and civilian nature of refugee camps and settlements is scrupulously upheld, there should be little possibility for terrorists and their financiers to impinge on the execution of our humanitarian mandate.

3. The reality of UNHCR's work, however, is that there are many situations, especially those involving mass forced movements arising from internal conflict, in which the perpetrators of extreme violations — some would call them "terrorists" — find themselves alongside their victims in humanitarian emergency situations. In this scenario, which we have seen exemplified in Kosovo, the Great Lakes region and, probably, now in East Timor, the humanitarian imperative demands that our priority should be to address the urgent humanitarian needs of the most vulnerable populations. UNHCR's mandate calls upon us to focus on those most in need, but, lacking the mandate and the capacity to seek to identify and punish the perpetrators of grave crimes or acts of terror and violence in emergency situations, we cannot suspend our humanitarian work until such time that the perpetrators are separated from genuine beneficiaries.

4. In effect, the reality of humanitarian work admits of the possibility — the word "possibility" is used because this is not always the case — that material assistance we provide may find its way into the hands of the guilty. We may be aware of the possibility, but we have no option to suspend our work of saving lives at that moment.

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5. In the scenario I have described, the effect of the draft convention is that it might criminalize the legitimate mandated activities of UNHCR and other humanitarian agencies. This is an undesirable result, not least because it will restrict the scope of our role and work against the interests of refugees, internally displaced persons and others of concern to the humanitarian community.

6. UNHCR has followed with great interest different proposals for the language to be used to solve the dilemma. To cite but a few, words such as **"knowledge"**, **"intention"** and **"unlawfully"** are **important qualifiers** and should certainly be retained.

7. UNHCR would be pleased to see the discussion progress towards the use of the term "unlawfully" as suggested by some delegations to ensure that the humanitarian community is not unduly penalized.

8. In order to further strengthen the position of humanitarian organizations, UNHCR believes, for instance, that article 19 of the International Convention for the Suppression of Terrorist Bombings could be of some help if it was added.

9. UNHCR is sure that the Working Group will agree that the desired result of this process is to address the financing of terrorism, without hindering the scope of humanitarian action. UNHCR appreciates the difficulties the Working Group faces in finding an appropriate language, yet UNHCR is confident that it should not be impossible to find the right balance.